

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. AND EARTH
VISIONS INC.

Plaintiffs and Counterclaim-
Defendants,

v.

EARTH PRODUCTS, INC.

Defendant and Counterclaim-
Plaintiff.

EARTH PRODUCTS INC.

Third-Party Plaintiff
Counterclaim-Defendant,

v.

PLANET, INC.

Third-Party Defendant and
Counterclaim-Plaintiff.

CIVIL ACTION NO. 05 cv 11781 NMG

JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1(d)

Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16.1(d), the Parties hereby provide their Joint Statement discussing the issues set forth in Local Rule 16.1(d).

I. INTRODUCTION

This case is one of two currently pending in this Court between the parties on substantially the same issues. The parties have jointly submitted a motion to consolidate the cases.

The Parties participated in a conference pursuant to Fed. R. Civ. P. 26(f) on September 13, 2006.

II. PROPOSED PRETRIAL SCHEDULE FOR CONSOLIDATED ACTIONS

The parties propose the following schedule for the consolidated actions:

Event	Time After Scheduling Conference
Rule 26(a)(1) Initial Disclosures	5 days
Addition of Parties	60 days
Filing of Amended Pleadings	120 days
Fact Discovery Closes	270 days
Initial Expert Reports ¹	300 days
Rebuttal Expert Reports	330 days
Expert Discovery Closes	360 days
Filing of Dispositive Motions	390 days
Final Pretrial Conference (Parties Ready for Trial)	440 days if no dispositive motions filed, or 60 days after a ruling on dispositive motions

III. PROPOSED DISCOVERY LIMITS

The Parties presently believe that written discovery can be completed within the limitations set by the Federal and Local Civil Rules, with the following exceptions. The Parties expect that significant third-party discovery may be needed due to the facts and issues present in this case, and therefore the 10-deposition limit of Fed. R. Civ. P. 30 and Local Rule 26.1(C) should be revised to limit the Parties instead to 90 hours of deposition time per side, including both direct and cross-examination by that side. The parties also propose that the limit on the number of interrogatories allowed under Fed. R. Civ. P. 33 and Local Rule 26.1(C) be raised from 25 to 50 interrogatories. The Parties also reserve the right to seek additional written or deposition discovery if the facts result in additional discovery being needed.

The Parties plan to jointly propose and request the entry of an appropriate Protective Order to ensure the confidentiality and safety of proprietary records disclosed or produced by any Party in this litigation, or by any third-party from whom discovery is obtained.

IV. TRIAL

The Parties have all requested a jury trial of all issues so triable. The Parties believe that trial of this case will require between 6 and 10 days.

¹ "Initial Expert Reports" refer to those expert reports regarding issues on which the party has the burden of proof at trial. "Rebuttal Expert Reports" are all other expert reports. The expert report deadlines also represent the deadline for disclosures of the relevant expert's identity.

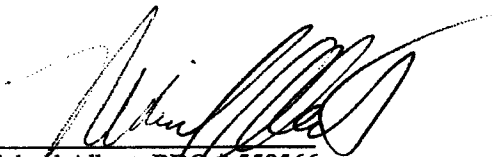
V. MAGISTRATE JUDGE

The Parties are not prepared to a trial by a Magistrate Judge at this time.

VI. LOCAL RULE 16.1(D)(3) CERTIFICATIONS

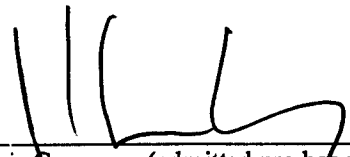
The Certifications from counsel and the Parties required by Local Rule 16.1(D)(3) are attached hereto, or will be individually filed.

Respectfully submitted on October 2, 2006,



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EARTH, INC., and
PLANET, INC.



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COUNSEL FOR EARTH
PRODUCTS, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 2, 2006, a true copy of the foregoing **JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1(d)** was served via e-mail (in addition to the Court's ECF service) to:

Michael Albert
David Wolf
Laura Topper
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600 Atlantic Avenue
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*Attorneys for Meynard Designs, Inc,
Earth Visions Inc., and Planet, Inc.*

By: /s/ J. Christopher Carraway
J. Christopher Carraway
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Portland, Oregon 97204

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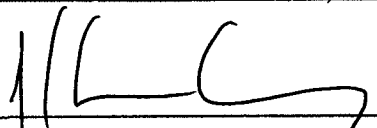
**EARTH PRODUCTS INC.'S CERTIFICATION
PURSUANT TO LOCAL RULE 16.1(d)(3)**

Earth Products Inc.'s counsel and authorized representative affirm, pursuant to Local Rule 16.1(d)(3), that they have conferred with a view to establishing a budget for the costs of conducting the full course and various alternative courses of the litigation. They further affirm they have conferred and considered the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

Dated: September 29, 2006

By: 
Jeff Larsen
President, Earth Products Inc.

Dated: October 2, 2006

By: 
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Attorneys for Earth Products Inc

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Meynard Designs, Inc.'s Certification Pursuant to Local Rule 16.1(D)(3)

Meynard's counsel and Meynard's authorized representative affirm, pursuant to Local Rule 16.1(D)(3), that they have conferred with a view to establishing a budget for the costs of conducting the full course – and various alternative courses – of the litigation. They further affirm they have conferred and considered the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

Meynard Designs, Inc.

By


Philippe Meynard
President

Counsel for Meynard Designs, Inc.


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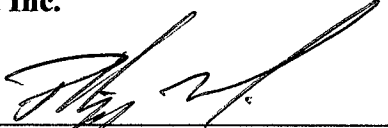
Earth, Inc.'s Certification Pursuant to Local Rule 16.1(D)(3)

Earth, Inc.'s¹ counsel and Earth, Inc.'s authorized representative affirm, pursuant to Local Rule 16.1(D)(3), that they have conferred with a view to establishing a budget for the costs of conducting the full course – and various alternative courses – of the litigation. They further affirm they have conferred and considered the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

¹ Earth, Inc. was formerly named Earth Visions Inc.

Earth, Inc.

By


Philippe Meynard
President

Counsel for Earth, Inc.


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Planet, Inc.'s counsel and Planet, Inc.'s authorized representative affirm, pursuant to Local Rule 16.1(D)(3), that they have conferred with a view to establishing a budget for the costs of conducting the full course – and various alternative courses – of the litigation. They further affirm they have conferred and considered the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

Planet, Inc.

By


Philippe Meynard
President

Counsel for Planet, Inc.


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